MT LEGISLATIVE HISTORY

Chapter 455 1989

Bill H 794 S _____ Original bill & hist. ✓C

H. Committee on Taxation			S. Committee on Taxation		
Hearing Date(s)		C	Hearing Date(s)	MAR 23	✓C
	h 3/3	C		MAR 22	✓C
	V 3/10 no minutes	C			C
		C			C
Date Out		C		MAR 22	✓C

Did this bill originate in an interim committee? ___Yes ___No

Committee _____ Report _____

HOUSE BILL NO. 794

INTRODUCED BY M. WILLIAMS, SANDS

BY REQUEST OF THE HOUSE COMMITTEE ON TAXATION

IN THE HOUSE

FEBRUARY 17, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
MARCH 10, 1987	COMMITTEE RECOMMEND BILL DO PASS AS AMENDED. REPORT ADOPTED.
MARCH 11, 1987	PRINTING REPORT.
MARCH 13, 1987	SECOND READING, DO PASS.
MARCH 14, 1987	ENGROSSING REPORT.
	THIRD READING, PASSED. AYES, 88; NOES, 9.
	TRANSMITTED TO SENATE.

IN THE SENATE

MARCH 16, 1987	INTRODUCED AND REFERRED TO COMMITTEE ON TAXATION.
MARCH 27, 1987	COMMITTEE RECOMMEND BILL BE CONCURRED IN. REPORT ADOPTED.
MARCH 31, 1987	SECOND READING, CONCURRED IN.
APRIL 1, 1987	THIRD READING, CONCURRED IN. AYES, 49; NOES, 0.
	RETURNED TO HOUSE.

IN THE HOUSE

APRIL 1, 1987	RECEIVED FROM SENATE.
	SENT TO ENROLLING.

House BILL NO. 794

INTRODUCED BY M Williams Lewis

BY REQUEST OF THE HOUSE COMMITTEE ON TAXATION

A BILL FOR AN ACT ENTITLED: "AN ACT CLARIFYING THE PROPERTY TAX EXEMPTION FOR LICENSED, NONPROFIT HOSPITALS AND OUTPATIENT SURGICAL CENTERS; AMENDING SECTION 15-6-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-6-201, MCA, is amended to read:

"15-6-201. Exempt categories. (1) The following categories of property are exempt from taxation:

(a) the property of:

(i) the United States, the state, counties, cities, towns, school districts, except, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, the property constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not including rural electric cooperatives);

(ii) irrigation districts organized under the laws of Montana and not operating for profit;

(iii) municipal corporations; and

(iv) public libraries;

(b) buildings, with land they occupy and furnishings therein, owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of such buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for licensed, nonprofit hospitals and licensed, nonprofit outpatient surgical centers;

(d) property that meets the following conditions:

(i) is owned and held by any association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) is devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) is not maintained and operated for private or corporate profit;

(e) institutions of purely public charity;

(f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

INTRODUCED BILL
HB-794

LC 1521/01

(g) public art galleries and public observatories not used or held for private or corporate profit;

(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(i) a truck canopy cover or topper weighing less than 300 pounds and having no accommodations attached. Such property is also exempt from the fee in lieu of tax.

(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

(k) automobiles and trucks having a rated capacity of three-quarters of a ton or less;

(l) motorcycles and quadricycles;

(m) fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land whose surface title is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(o) property owned and used by a corporation or

association organized and operated exclusively for the care of the developmentally disabled, mentally ill, or vocationally handicapped as defined in 18-5-101, which is not operated for gain or profit; and

(p) all farm buildings with a market value of less than $500 and all agricultural implements and machinery with a market value of less than $100.

(2) (a) The term "institutions of purely public charity" includes organizations owning and operating facilities for the care of the retired or aged or chronically ill, which are not operated for gain or profit.

(b) The terms "public art galleries" and "public observatories" include only those art galleries and observatories, whether of public or private ownership, that are open to the public without charge at all reasonable hours and are used for the purpose of education only.

(3) The following portions of the appraised value of a capital investment made after January 1, 1979, in a recognized nonfossil form of energy generation, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) $20,000 in the case of a single-family residential dwelling;

(b) $100,000 in the case of a multifamily residential dwelling or a nonresidential structure. (Subsection (1)(p)

applicable to taxable years beginning after December 31, 1985--sec. 4, Ch. 463, L. 1985.)"

NEW SECTION. Section 2. Extension of authority. Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 3. Effective date. This act is effective on passage and approval.

NEW SECTION. Section 4. Applicability. This act applies retroactively, within the meaning of 1-2-109, to taxable years beginning after December 31, 1986.

-End-

APPROVED BY COMMITTEE
ON TAXATION

HOUSE BILL NO. 794

INTRODUCED BY M. WILLIAMS, SANDS

BY REQUEST OF THE HOUSE COMMITTEE ON TAXATION

A BILL FOR AN ACT ENTITLED: "AN ACT ~~CLARIFYING--THE~~ REPLACING THE PROPERTY TAX EXEMPTION FOR HOSPITALS BY ESTABLISHING A PROPERTY TAX EXEMPTION FOR LICENSED, NONPROFIT ~~HOSPITALS--AND-OUTPATIENT-SURGICAL-CENTERS~~ HEALTH CARE FACILITIES; AMENDING SECTION 15-6-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND ~~A-RETROACTIVE~~ AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

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(ii) irrigation districts organized under the laws of Montana and not operating for profit;

(iii) municipal corporations; and

(iv) public libraries;

(b) buildings, with land they occupy and furnishings therein, owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of such buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for ~~licensed, nonprofit hospitals and---licensed,---nonprofit outpatient--surgical--centers,~~ HEALTH CARE FACILITIES, AS DEFINED IN 50-5-101, LICENSED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES AND ORGANIZED UNDER TITLE 35, CHAPTER 2 OR 3. A HEALTH CARE FACILITY THAT IS NOT LICENSED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES AND ORGANIZED UNDER TITLE 35, CHAPTER 2 OR 3, IS NOT EXEMPT.

(d) property that meets the following conditions:

(i) is owned and held by any association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) is devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and

improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) is not maintained and operated for private or corporate profit;

(e) institutions of purely public charity;

(f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

(g) public art galleries and public observatories not used or held for private or corporate profit;

(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(i) a truck canopy cover or topper weighing less than 300 pounds and having no accommodations attached. Such property is also exempt from the fee in lieu of tax.

(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

(k) automobiles and trucks having a rated capacity of three-quarters of a ton or less;

(l) motorcycles and quadricycles;

(m) fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for

uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land whose surface title is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(o) property owned and used by a corporation or association organized and operated exclusively for the care of the developmentally disabled, mentally ill, or vocationally handicapped as defined in 18-5-101, which is not operated for gain or profit; and

(p) all farm buildings with a market value of less than $500 and all agricultural implements and machinery with a market value of less than $100.

(2) (a) The term "institutions of purely public charity" includes organizations owning and operating facilities for the care of the retired or aged or chronically ill, which are not operated for gain or profit.

(b) The terms "public art galleries" and "public observatories" include only those art galleries and observatories, whether of public or private ownership, that are open to the public without charge at all reasonable hours and are used for the purpose of education only.

(3) The following portions of the appraised value of a capital investment made after January 1, 1979, in a

recognized nonfossil form of energy generation, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) $20,000 in the case of a single-family residential dwelling;

(b) $100,000 in the case of a multifamily residential dwelling or a nonresidential structure. (Subsection (1)(p) applicable to taxable years beginning after December 31, 1985--sec. 4, Ch. 463, L. 1985.)"

NEW SECTION. Section 2. Extension of authority. Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 3. Effective date. This act is effective on passage and approval.

NEW SECTION. Section 4. Applicability. This act applies ~~retroactively, within the meaning of 1-2-109,~~ to taxable years beginning after December 31, ~~1986~~ 1987.

-End-

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BY REQUEST OF THE HOUSE COMMITTEE ON TAXATION

A BILL FOR AN ACT ENTITLED: "AN ACT ~~CLARIFYING--THE~~ REPLACING THE PROPERTY TAX EXEMPTION FOR HOSPITALS BY ESTABLISHING A PROPERTY TAX EXEMPTION FOR LICENSED, NONPROFIT ~~HOSPITALS--AND-OUTPATIENT-SURGICAL-CENTERS~~ HEALTH CARE FACILITIES; AMENDING SECTION 15-6-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND ~~A-RETROACTIVE~~ AN APPLICABILITY DATE."

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(ii) irrigation districts organized under the laws of Montana and not operating for profit;

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(b) buildings, with land they occupy and furnishings therein, owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of such buildings;

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(d) property that meets the following conditions:

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(ii) is devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and

THIRD READING

improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

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(e) institutions of purely public charity;

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(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

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(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

(k) automobiles and trucks having a rated capacity of three-quarters of a ton or less;

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(m) fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for

uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land whose surface title is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

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REFERENCE BILL

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-End-

STATUS SHEET

50th LEGISLATIVE SESSION

TAXATION COMMITTEE

HOUSE BILL NUMBER	ENTERED COM. DATE	DATE CON-SIDERED	OUT OF COM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMENDED DATE	DO NOT PASS AS AMENDED DATE	BE CON-CURRED IN DATE	BE NOT CON-CURRED IN DATE	BE CON-CURRED IN AMENDED DATE	BE NOT CONCURRE IN AS AMENDE DATE
776	2/16/87	3/4/87				3/18/87					
782	2/16/87	3/9/87				3/18/87					
785	2/16/87	2/23/87	2/23/87	tabled							
791	2/18/87	3/5/87				3/12/87					
794	2/18/87	3/3/87				3/10/87					
807	2/18/87	3/3/87	3/17/87	tabled							
811	2/18/87	3/10/87	3/16/87	tabled							
813	2/19/87	3/5/87				3/19/87					
816	2/18/87	3/5/87				3/19/87					
817	2/18/87	2/19/87	referred	to Business and Labor							
817	2/19/87	3/5/87				3/6/87					
821	2/18/87	3/10/87				3/19/87					
826	2/18/87	3/5/87	3/16/87	tabled							
827	2/18/87	3/12/87	3/18/87	tabled							

MINUTES OF THE MEETING
TAXATION COMMITTEE
50TH LEGISLATIVE SESSION
HOUSE OF REPRESENTATIVES

March 3, 1987

The meeting of the Taxation Committee was called to order by Chairman Ramirez on March 3, 1987, in Room 312B of the State Capitol.

ROLL CALL: All members were present, except Rep. Hoffman who was excused. Also present was Dave Bohyer, Researcher, Legislative Council.

CONSIDERATION OF HOUSE BILL NO. 643: Rep. Earl Lory, House District #59, sponsor of HB 643, said the bill would set the maximum severance tax rate on surface mined coal at 18.5%, disallowing deduction of taxes and royalties from contract sales prices.

PROPONENTS OF HOUSE BILL NO. 643: Rep. Hal Harper, House District #44, alluded to legislative responsibility to balance the budget.

Tom Towe, former state Senator from Billings, read from a prepared statement in support of the bill (Exhibit #1). He suggested the Committee insert exact revenue-neutral figures on page 4, if it is determined that 18.5% is not appropriate. Mr. Towe explained that gross receipts would drop from 45% to 30% as proposed in an amendment (Exhibit #2).

Arnold Silverman, representing himself, read from a prepared statement in support of the bill (Exhibit #3).

Wallace McRae, Northern Plains Resource Council, read from prepared testimony in support of the bill (Exhibit #4).

Jean-Marie Souvgney, Montana Sierra Club, read from a prepared statement in support of the bill (Exhibit #5).

Phil Campbell, Montana Education Association, stated his support of the bill, to maintain current educational funding levels.

George Ochenski, Montana Environmental Information Center, stated his support of the bill.

Sara Parker, State Librarian, stated her support of the bill.

Glenda Crosby, Billings, volunteer interpreter at the Moss Mansion, stated her support of the bill.

Brenda Schye, Montana Cultural Advocacy, urged the Committee to give the bill favorable consideration (Exhibit #14).

Alan Tandy, City of Billings, stated his support of the bill (Exhibit #15).

Claudia Finley, Director, Moss Mansion, requested that the Committee support the bill.

Dewey Hanson, Billings, told the Committee he resides near the Moss Mansion and works as a volunteer.

Rep. Mel Williams stated that, as Chairman of the Revenue Oversight Committee, he supported the bill, and believes it to be an excellent piece of legislation.

OPPONENTS OF SENATE BILL NO. 26: There were no opponents of SB 26.

QUESTIONS ON SENATE BILL NO. 26: Rep. Raney asked what would happen if SB 26 does not pass. Sen. Hager replied the bill is somewhat of a test case.

Rep. Ellison asked if the organization were sound enough to meet on-going needs such as insurance, so the Mansion would not revert back to the state. Sen. Hager replied that the Mansion has received $760,000 in state and city contributions, in addition to $400,000-$500,000 in private contributions.

CLOSING ON SENATE BILL NO. 26: Sen. Hager asked the Committed to give a "unique opportunity" favorable consideration.

CONSIDERATION OF HOUSE BILL NO. 794: Rep. Mel Williams House District #85, sponsor of HB 794, said the bill was drafted at the request of the Taxation Committee as a result of Rep. Nelson's HB 17. He stated the "meat" of the bill is on page 2, lines 10-12, wherein it is stated that no surgical center operating at a profit shall be exempt from taxation.

PROPONENTS OF HOUSE BILL NO. 794: Bill Leary, Montana Hospital Association, said only 2 of 60 hospitals situated in the state are profit-making and pay taxes. He suggested adding "licensed, non-profit long term care facilities" to language in the bill, and further defining "non-profit health care facilities who produce a letter from the IRS for 501C3 status.

OPPONENTS OF HOUSE BILL NO. 794: Doug Alvord, M.D., Bozeman Surgery Center, stated his opposition to the bill.

Connie Martin, R.N., Bozeman Surgery Center, also stated her opposition to the bill.

Robert St. John, M.C., Butte Highland View Surgery Center, told the Committee that medical care is estimated to be 12% of the GNP, of which 60% is spent by hospitals. He explained that surgi-centers perform surgeries at 30-50% less than hospitals, and that his center has no profit from 1984-1986, and no intent of making a profit.

Van Kirke Nelson, Flathead Outpatient Surgical Center, read from a prepared statement in opposition to the bill (Exhibit #16).

QUESTIONS ON HOUSE BILL NO. 794: There were no questions.

CLOSING ON HOUSE BILL NO. 794: Rep. Williams advised that many medical clinics in Butte are not requesting such exemptions and will not have a problem.

CONSIDERATION OF HOUSE BILL NO. 807: Rep. Ben Cohen, House District #3, said the bill is an attempt to respond to recommendations to improve the business climate in the state. He explained that the bill would transfer manufacturing machinery and equipment from class eight to class twenty for property taxation purposes and provide for coordination with the creation of a class twenty for commercial property.

PROPONENTS OF HOUSE BILL NO. 807: There were no proponents of the bill.

OPPONENTS OF HOUSE BILL NO. 807: Marvin Barber, Montana Assessors Association, and Gordon Morris, Montana Association of Counties, stated their opposition to the bill.

QUESTIONS ON HOUSE BILL NO. 807: There were no questions on the bill.

CLOSING ON HOUSE BILL NO. 807: Rep. Cohen closed without comment.

DISPOSITION OF SENATE BILL NO. 26: Rep. Williams made a motion that SB 26 BE CONCURRED IN. The motion CARRIED, with all members voting aye, except Reps. Gilbert, Raney, and Ellison, who voted no.

CONSIDERATION OF SENATE BILL NO. 100: Sen. Hubert Abrams, Senate District #12, sponsor of SB 100, said the bill was

DAILY ROLL CALL

HOUSE TAXATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987

Date March 3, 1987

NAME	PRESENT	ABSENT	EXCUSED
REP. RAMIREZ	✓		
REP. ASAY	✓		
REP. ELLISON	✓		
REP. GILBERT	✓		
REP. HANSON	✓		
REP. HARP	✓		
REP. HARRINGTON	✓		
REP. HOFFMAN			✓
REP. KEENAN	✓		
REP. KOEHNKE	✓		
REP. PATTERSON	✓		
REP. RANEY	✓		
REP. REAM	✓		
REP. SANDS	✓		
REP. SCHYE	✓		
REP. WILLIAMS	✓		

3-3
EX #15
HB 794

Kalispell Ob-Gyn Associates, P.C.

EXHIBIT #15
DATE 3-3-87
HB 794

OBSTETRICS GYNECOLOGY INFERTILITY

VAN KIRKE NELSON, M.D.
JOHN L. HEINE, M.D.
ELLIS M. SOWELL, M.D.

DIPLOMATS OF THE AMERICAN
COLLEGE OF OBSTETRICS AND
GYNECOLOGY

Dear Member of the House Committee on Taxation

I am here representing the Flathead Outpatient Surgical Center to speak in opposition to House Bill #794.

Three years ago, every physician practicing in a surgical specialty in Kalispell banded together to build a free-standing outpatient surgical center, a facility to provide single day surgical services at a cost to be considerably less than that charged for the same service at Kalispell Regional Hospital. Through the Certificate of Need process, it was deemed by the State Dept. of Health & Environmental Sciences, that a facility was indeed needed in Kalispell, a Certificate of Need granted, and the facility financed through the "Build Montana" program and the Montana Economic Development Board.

We have just finished our first year of operation--have operated 1400 patients with only two of those patients necessitating admission to Kalispell Regional Hospital for an additional day's hospitalization.

The competition through our presence has caused Kalispell Regional Hospital to lower their costs for outpatient surgical services, and in some cases, half of what they were charging prior to our existence. Even with their reduction through competition, we continue to provide a service for approximately 20% less than does the hospital.

I believe the attached bulletin from the State Dept. of Health & Environmental Sciences will substantiate the fact that costs for services in Montana are less than the national average, and the cost for physician services are less than half of the national average.

You have asked us through House Joint Resolution #37, a copy of which is attached, that Montana physicians continue to do everything within their power to maintain low cost care and maintain cost containment. Yet through House Bill #794, you seek to raise the cost of providing care.

210 Sunny View Lane - Kalispell, Montana 59901 Telephone 406-755-5252

EXHIBIT #15
DATE 3-3-87
HB 794

There are three "for profit" outpatient surgical centers in Montana, and two "for profit" hospitals--Plains and Missoula General. I cannot speak for the "profit" that is realized by the other facilities. I do know that each of the 22 owners of our facility contributed $25,000 three years ago; and to date, we have received $1,000 in return--hardly what you would consider a profit making operation.

We realize very well the difficult decisions that you will make as you try to balance the state's budget, and we do share with you that concern. If you should, through this amended bill, make us a taxable entity, we have no choice but to pass that charge on to you the consumer, often a consumer that can ill afford the increased cost for the service.

The amount of revenue that would be realized from the existing "for profit" surgical centers, and the two hospitals, is negligible. The increase in costs passed on to the consumer necessitating the medical service may not seem so minor.

Medicine has its obligations to provide care to those in all walks of life--the Medicaid recipient, the Medicare recipient, and those in between with and without ability to pay. Help us to provide that care at an affordable price and oppose House Bill #794 as amended. To fail to do so will only hurt those who truly do need to benefit by cost containment.

Thank you.

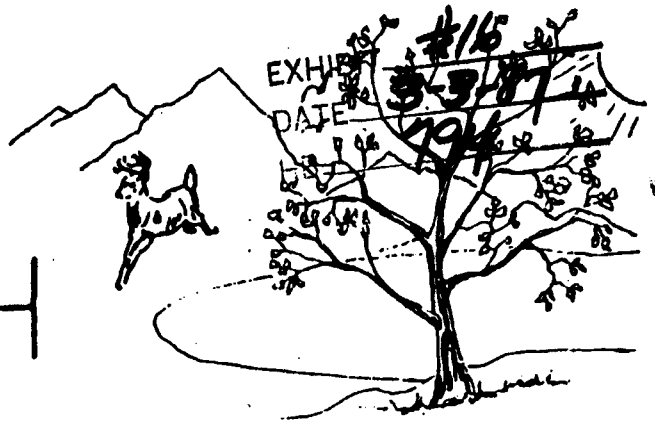
Van Kirke Nelson

Van Kirke Nelson, M.D.

VKN:jw

TREASURE STATE HEALTH

VOL. 34 NO. 3 SUMMER, 1985 MONTANA DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES



Latest Available Figures on Health Care Costs Show Montanans Fare Better Than Rest of U.S.

The latest available health care figures present an interesting economic profile for Montanans and others in the United States.

First of all, the good news is that the rate of increase in costs has decreased for the nation and markedly for Montanans. The bad news is the costs of staying healty continue to accelerate by the millions in the state and billions in the nation, running far ahead of inflation.

But, for Montanans, at least the per capita cost per year is far cheaper than for the average U.S. citizen — $350 less, in fact.

Additionally, individuals in this state, on the average pay 29.1% less for hospital costs in a year; physician costs for Montanans is an even better deal and we spend less than half as much in this category as our national counterparts; and, our annual dental bill is 32.6% cheaper for each of us than the country's average.

Also, we get by with far less cost individually for drugs and drug sundries at $58 per year compared to $97 national average.

When it comes to eyeglasses and appliances though, the costs even out for Montanans and the rest of the nation with identical average annual costs per capita of $25.

The only major division of health care which costs Montanans more than residents of the rest of the country is nursing home and home health care, where we pay 111% of the national average.

Now, here's a look at all the figures in detail:

Montanans spent $906.3 million for health care in 1983, the most recent year for which figures are available. That was 9.7 percent more than the $825.9 million total for 1982; however, the rate of increase from 1981 to 1982 had been 20.3 percent.

The national rate of increase was 10.3 percent with total U.S. expenditures of $355.4 billion in 1983 compared to $322.3 a year earlier. Once again, however, the rate of increase was slowed from the 12.3 percent of the previous year.

For the individual Montanan, health care costs totaled $1,109 in 1983 while the national per capita figure was $1,459, so this state's citizens paid 24 percent less for their health care than the country's average individual cost.

Nevertheless, Montana's per capita expenditure was up 7.7 percent and the national figure was 6 percent higher.

Differing methods of accumulating and presenting the figures make it impossible to determine if the wide variance in state versus national per capita expenditures means Montanans are that much healthier and require less care, get more care for their health dollars, or if their total costs are determined differently.

The Montana figures are provided in a report compiled by Albert Niccolucci of the health planning and resource development bureau of the Montana Department of Health and Environmental Sciences.

The continuing acceleration of Montana and national health care expenditures — both nearly three times the 1983 inflation rate of 3.8 percent — add emphasis to efforts by state and national governments to control such costs.

• Hospital costs again topped both state and national lists, accounting for 38.5% of Montanans' total costs and 41.4% of the $355.4 billion total national health care expenditures. Montanans' $349.3 million expenditure in this category represents $428 per person and the national expenditure of $147.2 billion for hospital care equals $604 per person.

• Physicians' services, still the second most costly item both state and nationally, accounted for $112.6 million in Montana, or 12.4%of the total costs; and $69 billion nationally, 19.4% of that total. Per capita it was $283 nationally and slightly less than half of that at $138 for Montana.

• The third highest category of health care expenditures — state and national — cost Montanans $106.7 million, or 11.8% of the total, for nursing home and home health care. Nationally, the figure was $28.8 billion, only 8.1% of the total. It is the only one of the major areas more costly per capita for Montanans at $131 each than the national per person expenditure of $118.

• Dental services, at $21.8 billion nationally and $49.4 million in Montana, accounted for 6.1% of the national expenditures and 5.5%in Montana. Again the per capita cost was much higher on a national basis at $89 than the state's $60.

The remainder of Montana's health care expenditures for 1983, by type, amount, and percentage of the total, are:

Research and construction of medical facilities, $57.2 million, 6.3%; expenses for prepayment and administration, $52.4 million, 5.8%; drugs and drug sundries, $47.4 million, 5.2%; other professional services, $44.3 million, 4.9%; government public health, $37.6 million, 4.2%; other health services, $28.6 million, 3.2%; and eyeglasses and appliances, $20. million, 2.3%.

When it comes to the source of the funds to pay these health care expenditures, Montanans paid

(Continued on Page 2)

EXHIBIT
DATE 3-3-87
HB 794

IF Amendments do. HB 794 ARE in order:

Suggest:

1. Add licensed nonprofit long-term CARE facilities

2. Further define nonprofit health care facilities to mean only those licensed nonprofit health care facilities that can produce a valid letter from the Internal Revenue Service which grants the classification of a 501(C)3 tax exempt organization under the Federal Code.

If the licensed facilities - hospital, outpatient surgical center - nursing home cannot prove that they are a 501(C)3 organization then they should not be exempt from State or Federal Real or Personal property taxes even tho they are licensed by the State Dept of Health as a health care facility.

This would set up the proper method for these outpatient surgical

EXHIBIT
DATE 2-3-87
HB 794

leaders who are opposed to this Bill to legally seek a 501(c)3 tax exempt status which any attorney can tell them how to pursue.

If on the other hand they do not secure the 501(c)3 classification they should be subjected to paying the real and personal property tax the same as any non tax exempt business in any community in Montana

HB 17 I remind you that this legislature has already declared their intent to not allow a for profit outpatient surgical center to escape paying real and personal property tax when on Jan 14, the House killed HB 17.

William Leary

Montana Hospital Association
Helena, Mt.
442-1911

HB 794

VISITORS' REGISTER

House Taxation COMMITTEE

BILL NO. HB 794 DATE March 3, 1987

SPONSOR Williams

NAME (please print)	REPRESENTING	SUPPORT	OPPOSE
DOUGLAS ALWORD MD	BOZEMAN SURGERY CTR		X
Connie Martin RN	Bozeman Surg. Ctr		X
Robert A. St. John, M.D.	At the Highland View Surg. Ctr		X
Dan Mike Nelson	Flathead Outpatient Surgical Center		X
Vickie Johnson	Flathead Outpatient Surg. Center		X
William Leary	Montana Hosp. Assn	✓	
Marvin Barber	Mt assessors assn		✓

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR WITNESS STATEMENT FOR

PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

STANDING COMMITTEE REPORT

March 10 19 87

Mr. Speaker: We, the committee on TAXATION

report HOUSE BILL 794

☒ do pass ☐ be concurred in ☒ as amended
☐ do not pass ☐ be not concurred in ☐ statement of intent attached

REP. JACK RAMIREZ Chairman

PROPERTY TAX EXEMPTION FOR LICENSED, NONPROFIT HOSPITAL & OUTPATIENT CENTERS

Be Amended As follows:
1. Title, line 5.
Following: ""AN ACT"
Strike: "CLARIFYING THE"
Insert: "REPLACING THE PROPERTY TAX EXEMPTION FOR HOSPITALS BY ESTABLISHING A"

2. Title, lines 6 and 7.
Following: "NONPROFIT" on line 6
Strike: "HOSPITALS AND OUTPATIENT SURGICAL CENTERS"
Insert: "HEALTH CARE FACILITIES"

3. Title, line 8.
Following: "DATE AND"
Strike: "A RETROACTIVE"
Insert: "AN"

4. Page 2, line 11.
Following line 10
Strike: "licensed,"

5. Page 2, lines 11 and 12.
Following: "nonprofit"
Strike: "hospitals and licensed, nonprofit outpatient surgical centers"
Insert: "health care facilities, as defined in 50-5-101, licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3. A health care facility that is not licensed by the department of health and environmental sciences and organized under Title 35, chapter 2 or 3 is not exempt."

6. Page 5, line 10.
Following: "applies"
Strike: "retroactively, within the meaning of 1-2-109,"

7. Page 5, line 11.
Following: "December 31,"
Strike: "1986"
Insert: "1987"

First reading copy (White color)

COMMITTEE--(S) TAXATION

RUN DATE.... 04/27/87

CHAIRMAN--SEN. GEORGE MCCALLUM
NORMAL SCHEDULE==> SITE: ROOM 413/415 DAYS: MON THRU FRI TIME: 8:00 A.M.

SECRETARY-AGGIE HAMILTON

--BILL NO---	REFER DATE---	HEARING DATE---	CONSIDERATION DATES----------	COMMITTEE ACTION----------	REREFERRED TO COMM----	DATE OUT-
HB0741	3/24				BUSINESS & LABOR	
HARP, JOHN			REGULATION OF HEALTH SERVICE CORPORATIONS			
HB0743	3/18	3/25	3/30, 4/2, 4/8, 4/10	CONCUR AS AMENDED		4/11
SALES, WALT			AMEND PROPERTY TAX AND ASSESSMENT SALE -- REDEMPTION TIME BASED ON HOMESTEAD			
HB0751	3/23	3/30		CONCUR AS AMENDED		3/30
WINSLOW, CAL			TAX EXEMPTION TO PREVENT DISMANTLING OF NONPRODUCING MFG. IMPROVEMENT			
HB0776	3/25	4/03		CONCUR AS AMENDED		4/11
NATHE, DENNIS			EXEMPT FROM SEVERANCE TAX ALL STRIPPER WELLS & ALL OTHER WELLS FOR 2 YEARS			
HB0782	3/25	4/02	4/10	CONCUR AS AMENDED		4/11
SANDS, JACK			LOCAL OPTION SALES OR INCOME TAX			
HB0791	3/18	3/25		CONCUR		3/27
STRIZICH, BILL			DANGEROUS DRUG TAX ACT			
HB0794	3/16	3/23		CONCUR		3/27
WILLIAMS, MEL			PROPERTY TAX EXEMPTION FOR LICENSED, NONPROFIT HOSPITAL & OUTPATIENT CENTERS			
HB0795	3/18	3/26		CONCUR	FINANCE & CLAIMS	3/27
GILBERT, BOB			INCORPORATES REGULATION OF CLASS II INJECTION WELLS IN THE OIL AND GAS LAWS			
HB0813	3/24	3/27		CONCUR AS AMENDED		4/3
COHEN, BEN			SETTING FEE IN LIEU OF TAXES ON 3-WHEEL AND 4-WHEEL OFF-ROAD VEHICLES			
HB0816	4/10	4/11		CONCUR AS AMENDED		4/11
ASAY, TOM			NEW CLASS 20 PROPERTY FOR AGRICULTURAL PROCESSING AND TIMBER PLANTS			
HB0848	4/10	4/13		CONCUR		4/13
STANG, SPOOK			REFUND PRORATED SHARE OF CERTAIN TAXES PAID IN OTHER STATES			

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 23, 1987

The forty-seventh meeting of the Senate Taxation Committee was called to order at 8:00 A.M. on March 23, 1987 by Chairman George McCallum in Room 413/415 of the Capitol Building.

ROLL CALL: All committee members were present with the exception of Senators Hager and Crippen.

CONSIDERATION OF HB 794: Representative Williams, House District 85, presented this bill to the committee. This bill was introduced at the request of the House Committee on Taxation. A bill was introduced in the House to exempt the outpatient surgical centers from taxation even though they were not nonprofit. The committee killed that bill and in the process discovered some clarification was necessary. The intent of the committee was to clarify that all licensed, nonprofit hospitals would be exempt. They felt that if they were operating for the private enterprise system for profit they should be on the tax rolls. The bill was amended in the House to identify all segments of the health care facilities under the definition of statutory law as defined in 50-5-101.

PROPONENTS: Bill Leary, representing the Montana Hospital Association, gave testimony in support of this bill. This piece of legislation has long been needed in the state for clarification of nonprofit, licensed health care facilities, hospitals, nursing homes and others that fall under that category.

OPPONENTS: Van Kirke Nelson, M.D., physician from Kalispell representing the two nonprofit hospitals in Montana, for profit hospitals in Montana and profit surgical centers, gave testimony in opposition to this bill. A copy of his written statement is attached as Exhibit 1.

QUESTIONS FROM THE COMMITTEE: Senator Eck asked Dr. Nelson if the hospitals and facilities he was representing have been paying property taxes up until now.

Van Kirke Nelson said the hospital in Plains has been paying taxes under protest and he believes has an action presently pending. The Flathead outpatient

surgical has only had one tax bill, which was paid under protest and appealed to the State Tax Appeals Board. The State Tax Appeals Board found the out-patient surgical centers should be included as a not for profit entity as relates to taxation. The Department of Revenue is appealing and it was to go to the District Court to be heard and then this bill was introduced.

Senator Eck asked Greg Groepper what is done in the area of profit educational facilities.

Greg Groepper said the way the law is written now the status does not make a difference. It could be used for educational purposes, profit or nonprofit, and it would still qualify for exemption. To get property tax exemption you have to apply.

Senator McCallum commented on Dr. Nelson's testimony in which he stated there are only two profit hospitals that are paying taxes in Montana and they are going broke.

Van Kirke Nelson said they have been paying taxes for many years. If these hospitals want to be nonprofit under the terms of this law, they would simply have to reorganize, develop new bylaws and then file as a non-profit health care facility under the state of Montana. All of the other hospitals in the state of Montana, in addition to nonprofit hospitals, are required to declare a certain amount of their operations for charity.

Senator Lybeck asked Dr. Nelson how he felt about the charity provision.

Dr. Nelson said we have in our charter a charity clause and we will operate on any patient for free in our facility if the physician states he has no problem and the physician himself is willing to provide the services free. That is written in our bylaws.

Senator Eck asked if he knew whether the nonprofit facilities have a similar clause.

Dr. Nelson said he could speak for the surgical centers, and they have a charity clause and do procedures for free.

Representative Williams closed by stating he thought, as far as charitable clauses is concerned, all hospitals

ROLL CALL

TAXATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 3-23-87

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN			✓
SENATOR NEUMAN	✓		
SENATOR SEVERSON	✓		
SENATOR LYBECK	✓		
SENATOR HAGER			✓
SENATOR MAZUREK	✓		
SENATOR ECK	✓		
SENATOR BROWN	✓		
SENATOR HIRSCH	✓		
SENATOR BISHOP	✓		
SENATOR HALLIGAN, VICE CHAIRMAN	✓		
SENATOR McCALLUM, CHAIRMAN	✓		

Each day attach to minutes.

DATE March 23, 1987

COMMITTEE ON Senate Taxation

VISITORS' REGISTER HBs 47, 457, 606, 794

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
KEITH H. HILL	LOCKWOOD WATER USERS ASS'N	606	X	
BRUCE RESTAD	County water Dist. Bigs Heights	606	+	
Marvin Baxter	Mt assessors	HB47 HB457	Y	
Don Waldron		794		✓
Jeff Pesta				

(Please leave prepared statement with Secretary.)

Kalispell Ob-Gyn Associates, P.C.

OBSTETRICS GYNECOLOGY INFERTILITY

SENATE TAXATION
EXHIBIT NO. 1
DATE 3-23-87
BILL NO. HB 794

VAN KIRKE NELSON, M.D.
JOHN L. HEINE, M.D.
ELLIS M. SOWELL, M.D.

DIPLOMATS OF THE AMERICAN COLLEGE OF OBSTETRICS AND GYNECOLOGY

March 20, 1987
Friday

Dear Member of the Senate Committee on Taxation:

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210 Sunny View Lane - Kalispell, Montana 59901 Telephone 406-755-5252

(over please)

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Thank you.

Sincerely,

Van Kirke Nelson, M.D.

Van Kirke Nelson, M.D.

VKN:le
Enclosures

SENATE TAXATION
EXHIBIT NO. 1
DATE 3-23-87
BILL NO. H.B. 794

TREASURE STATE HEALTH

VOL. 34 NO. 3 SUMMER, 1985 MONTANA DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES

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Nevertheless, Montana's per capita expenditure was up 7.7 percent and the national figure was 6 percent higher.

Differing methods of accumulating and presenting the figures make it impossible to determine if the wide variance in state versus national per capita expenditures means Montanans are that much healthier and require less care, get more care for their health dollars, or if their total costs are determined differently.

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The remainder of Montana's health care expenditures for 1983, by type, amount, and percentage of the total, are:

Research and construction of medical facilities, $57.2 million, 6.3%; expenses for prepayment and administration, $52.4 million, 5.8%; drugs and drug sundries, $47.4 million, 5.2%; other professional services, $44.3 million, 4.9%; government public health, $37.6 million, 4.2%; other health services, $28.6 million, 3.2%; and eyeglasses and appliances, $20.8 million, 2.3%.

When it comes to the source of the funds to pay these health care expenditures, Montanans paid

(Continued on Page 2)

House JOINT RESOLUTION NO. 37

INTRODUCED BY [signatures]

BY REQUEST OF THE HOUSE COMMITTEE ON BUSINESS AND LABOR

A JOINT RESOLUTION OF THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA URGING PHYSICIANS TO ENROLL IN THE PARTICIPATING PHYSICIAN PROGRAM AND ASKING THE CONGRESS OF THE UNITED STATES TO EXAMINE THE APPROPRIATENESS OF MEDICAL RATES.

WHEREAS, the Medicare program was created as an insurance program that would protect the older person from high out-of-pocket health care expenses; and

WHEREAS, older Montanans pay an average of $1,036 a year out-of-pocket for medical costs above what Medicare and supplemental insurance cover; and

WHEREAS, the cost of health care is escalating at a rate of 7% a year or seven times the rate of inflation; and

WHEREAS, the charges by physicians have increased at three times the rate of inflation; and

WHEREAS, a significant portion of Montana's population foregoes medical care because of its high costs; and

WHEREAS, the federal government has created the Participating Physician Program that provides incentives for physicians to charge no more than Medicare's approved rates; and

WHEREAS, less than 14% of Montana physicians currently are enrolled in the Participating Physician Program.

NOW, THEREFORE, BE IT RESOLVED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES OF THE STATE OF MONTANA:

That the physicians of Montana be urged to consider enrolling in the Participating Physician Program during the 1987 enrollment period as a means of demonstrating their concern and commitment to affordable and accessible health care.

BE IT FURTHER RESOLVED, that the State of Montana urge the Congress of the United States to direct the Health Care Financing Administration of the federal Department of Health and Human Services, which administers Medicare, to examine the appropriateness of Medicare rates, especially the differential between generalists and specialists.

BE IT FURTHER RESOLVED, that the Congress of the United States be urged to establish a system of affordable and accessible health care for older citizens.

BE IT FURTHER RESOLVED, that the Secretary of State send copies of this resolution to the Montana Medical Association for circulation to its members, the Speaker of the United States House of Representatives, the Majority Leader of the United States Senate, the President of the

EXHIBIT NO. 1
DATE 3-23-87
SENATE TAXATION

LC 1775/01

INTRODUCED BILL
HJR-37

United States, each member of the Montana Congressional Delegation, and the Governor of the State of Montana.

-End-

MONTANA DEACONESS HOSPITAL, a non-profit corporation, and Picker Corporation, a New York Corporation, Plaintiffs and Respondents,

v.

CASCADE COUNTY, a body politic of the State of Montana et al., Defendants and Appellants.

No. 12599.

Supreme Court of Montana.

Submitted March 20, 1974.

Decided April 17, 1974.

Action to recover taxes paid to county on certain personal property used exclusively for hospital purposes under a lease agreement between plaintiffs. The Eighth Judicial District Court, Cascade County, R. J. Nelson, J., granted motion of plaintiffs for summary judgment, and county appealed. The Supreme Court, Haswell, J., held that personal property in form of X-ray equipment leased by nonprofit hospital and used exclusively for hospital purposes was exempt from taxation even though lessor, a private profit corporation, received a profit from lease.

Affirmed.

1. Statutes ⇐188, 202, 203

Function of court with respect to statutory construction is to interpret intention of legislature, if at all possible, from the plain meaning of words used, and if meaning of statute can be determined from language used, court is not at liberty to add or detract language from statute. R.C.M. 1947, §§ 84-202, 93-401-15, 93-401-16.

2. Taxation ⇐241.2

Fact that tax exemption statute creates several classes of exemptions, based in one case on "ownership" and in other case upon "use," reveals a clear legislative intent to exclude "ownership" of property as a criterion in determining applicability of exemption to property "used exclusively for hospitals." R.C.M.1947, § 84-202; Const.1889, art. 12, § 2; Const.1972, art. 8, § 5.

3. Taxation ⇐1241

Personal property in form of X-ray equipment leased by nonprofit hospital and used exclusively for hospital purposes was exempt from taxation even though lessor, a private profit corporation, received a profit from lease. R.C.M.1947, § 84-202; Const.1889, art. 12, § 2; Const.1972, art. 8, § 5.

J. Fred Bourdeau, County Atty., Michael T. Greely, Deputy County Atty. argued, Great Falls, for appellants.

Church, Harris, Johnson & Williams, Earl J. Hanson argued, and Robert P. Goff argued, Great Falls, for respondents.

Cure & Borer, Great Falls, for amicus curiae.

HASWELL, Justice.

This is an action to recover taxes paid to the defendant Cascade County on certain personal property used exclusively for hospital purposes under a lease agreement between the plaintiffs. The Hon. R. J. Nelson, district judge, granted plaintiffs' motion for summary judgment. From this judgment, the County appeals.

Plaintiff, Montana Deaconess Hospital, is a nonprofit hospital in Great Falls, Montana. The hospital leased certain X-ray equipment from the coplaintiff, Picker Corporation, under an agreement for a stipulated monthly rental. In addition the hospital was required to reimburse the Picker Corporation for any taxes assessed on the equipment. This X-ray equipment was used exclusively for hospital purposes.

On March 29, 1972, the Cascade County treasurer issued a personal property tax statement for the year 1972 to Picker Corporation in the amount of $10,839.96. Included in the statement was an amount of $8,004.62 assessed upon said equipment leased by Picker Corporation to the hospital. Picker Corporation, be

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taxes to be due, paid the full amount to Cascade County. Subsequently they requested reimbursement from the hospital pursuant to the terms of the lease.

On July 12, 1972, both the hospital and Picker Corporation petitioned the Cascade County commissioners for a refund of the tax on the grounds that the hospital was a nonprofit corporation and the property was exempt from taxation under section 84–202, R.C.M.1947. The petition was filed in accord with section 84–4176, R.C.M.1947.

The Board of County Commissioners denied the petition, and subsequently plaintiffs filed this complaint for refund in district court on October 4, 1972. Plaintiffs' motion for summary judgment was granted on August 2, 1973. From this judgment the County has filed this appeal.

In addition to the parties to this appeal, the Sisters of Charity of Providence of Montana, owners and operators of the Columbus Hospital in Great Falls, appeared as amicus curiae by way of brief and oral argument.

The sole issue presented for review is whether personal property leased by a nonprofit hospital and used exclusively for hospital purposes is exempt from taxation even though the lessor, a private profit corporation, received a profit from said lease.

The pertinent statute involved in this action is section 84–202, R.C.M.1947, which was enacted by the legislature pursuant to authority of Article XII, section 2 of the 1889 Montana Constitution, now Art. VIII, section 5 of the 1972 Constitution. Section 84–202 grants tax exemptions for certain classes of property. That section states in part:

"The property of the United States, the state, counties, cities, towns, school districts, municipal corporations, public libraries, *such other property as is used exclusively for agricultural and horticultural societies, for educational purposes, places of actual religious worship, hospitals and places of burial not used or held for private or corporate profit* * * * are exempt from taxation * * *." (Emphasis added.)

The hospital and Picker Corporation's argument is that the statute exempts, among others, two classes of property from taxation: property *owned* by certain specified entities and property *used* for certain specific purposes. In the first class of exemptions all property *owned* by governmental entities is exempt from taxation, regardless of the manner of its use. The second class of property exempted by the statute is property used exclusively for specific purposes, including use for hospital purposes by nonprofit hospitals. They argue that the statutory exemption is not dependent upon ownership but exempts all property used exclusively for hospital purposes by a nonprofit hospital.

It is the County's contention that every claim for exemption from taxation should be denied unless the exemption is granted so clearly as to leave no room for any fair doubt. Cruse v. Fischl, 55 Mont. 258, 175 P. 878. The County argues that the language of section 84–202, R.C.M.1947 is not clear and could be subject to several interpretations. The County contends that while the nonprofit hospitals themselves are clearly exempt from taxation, nothing contained in section 84–202 exempts all property used exclusively for hospital purposes regardless of the commercial profit that may be derived from such property. The County argues that in the instant case Picker Corporation owns the property in question and derives a significant profit from the property. The County further contends that section 84–202 contains a strong legislative intent to prohibit exemptions where corporate or private profit is realized; thus, said X-ray equipment under lease to the hospital is a taxable interest in personal property. Allen v. Multnomah County, 179 Or. 548, 173 P.2d 475; Ross v. City of Long Beach, 24 Cal.2d 258, 148 P. 2d 649.

This same question was under consideration in N.W. Imp. Co. v. Rosebud Co., 129 Mont. 412, 288 P.2d 657. There this Court

discussed the various views on the subject matter and demonstrated the split of authority throughout the country. That case, however, may be distinguished. In *N.W. Imp. Co.*, unlike the instant case, the Court found that the private company that was leasing property to the exempt school district was not deriving any economic advantage from the lease of the building. The rental on the lease agreement was so adjusted that at the end of its estimated life the private company would have returned to it only the actual cost of construction without any interest.

Although *N.W. Imp. Co.* is thus distinguishable, the reasoning used in that case may be extended to exempt from taxation the property in question here. This we believe to be in accord with the legislative intent of section 84-202, R.C.M.1947.

[1] It is a well accepted principle of statutory construction that the function of the Court is to interpret the intention of the legislature, if at all possible, from the plain meaning of the words used, and if the meaning of the statute can be determined from the language used, the Court is not at liberty to add or detract language from the statute in question. Sections 93-401-15, 93-401-16, R.C.M.1947; Nice v. State Board of Equalization, 161 Mont. 448, 507 P.2d 527, 30 St.Rep. 284.

[2, 3] The fact that the statute creates several classes of exemptions, based in one case on "ownership" and in the other case upon "use", reveals a clear legislative intent to exclude "ownership" of property as a criterion in determining the applicability of the exemption to property "used exclusively for hospitals". To require that hospitals own the property, in addition to the requirement that they use the property only for hospital purposes, would necessitate inserting the words "owned by" or words of similar import, so that the relevant clause would read "property owned by and used exclusively for * * * hospital purposes." To insert these suggested words into this statute would give to it an added meaning not to be found in the plain and unambiguous language of the statute. See Ross v. City of Long Beach, 24 Cal.2d 258, 148 P.2d 649; Scott v. Society of Russian Israelites, 59 Neb. 571, 81 N.W. 624.

The legislative purpose in creating the tax exemption appears to be lower costs of hospital care, which in turn means lesser expenses for patients. To deny the exemption here would add an additional expense to the rental price already paid for the equipment. If the equipment here is taxable to Picker Corporation it is reimbursable to them by the hospital whose patients would bear the taxes in the form of increased hospital charges. This would be directly contrary to the purpose of the exemption.

For these reasons the judgment of the district court is affirmed.

JAMES T. HARRISON, C. J., and DALY, CASTLES and JOHN C. HARRISON, JJ., concur.

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FLATHEAD COUNTY TAX APPEAL BOARD

* * * * * *

IN THE MATTER OF THE APPLICATION FOR PROPERTY TAX EXEMPTION BY NEW HORIZONS PARTNERSHIP/FLATHEAD OUTPATIENT SURGICAL CENTER	)	MEMORANDUM OF PETITIONER NEW HORIZONS PARTNERSHIP/ FLATHEAD OUTPATIENT SURGICAL CENTER Appeal No. FC-86-295

I. INTRODUCTION

The New Horizons Partnership/Flathead Outpatient Surgical Center ("Surgery Center") is a hospital and should be exempt from property taxation under MCA § 15-6-201(1)(c). The operations performed by the Surgery Center are those done in traditional hospital settings, and the medical equipment, which is the subject of the taxation, is used exclusively for hospital purposes. The Center provides quality care in a relaxed environment at a lower cost than more expensive full-service hospitals. The Legislature intended to lower medical costs for Montana citizens by exempting hospital property from taxation. By granting the Surgery Center the tax exemption to which it is entitled, the Board can fulfill that intent.

II. DISCUSSION

A. The New Horizons Partnership/Flathead Outpatient Surgical Center Is A Hospital Within The Meaning Of MCA § 15-6-201(1)(c).

Montana exempts from property taxation:

> "property used exclusively for agriculture and horticultural societies, for educational purposes, and for hospitals;"

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MCA § 15-6-201(1)(c). The Surgery Center is a hospital and the medical equipment therein is used exclusively for hospital purposes. In Montana Deaconness Hospital v. Cascade County, 521 P.2d 203, 205 (Mont. 1974), the Court held that property leased, but not owned, by the hospital was tax exempt.[1] The key to its decision was that the property was used exclusively for hospital purposes. 521 P.2d at 205. Other courts have likewise focused on the use of the property at issue to determine whether it was tax exempt. See Sisters of St. Mary v. City of Madison, 278 N.W. 2d 814, 818-19 (Wis. 1979) (residence of hospital chaplain held to be exempt from taxation where it was used exclusively for hospital purposes and was reasonably necessary to the efficient functioning of the hospital). Abbott-Northwestern Hospital, Inc. v. County of Hennepin, 389 N.W. 2d 916 (Minn. 1986) (lodging facility for hospital patient relatives held to be exempt from taxation because it was devoted to and reasonably necessary for the accomplishment of hospital purposes). The cases underscore the broad interpretation that is to be given to the term "hospital" under tax exemption statutes.

The Surgery Center performs a variety of major and minor surgeries and performs non-surgical procedures, such as

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1 As will be demonstrated, the statute interpreted in the Montana Deaconness Hospital case is the same as MCA § 15-6-201(1)(c), except that the present statute does not require that the hospital be a charitable organization. Thus, although the charitable purpose requirement has been eliminated from the present statute, the Court's analysis is helpful to the extent that it interprets language which is a part of the present statute.

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chemotherapy, biopsies, transfusions and dialysis, which are traditionally performed only in hospitals. It is licensed by the Board of Health and Environmental Sciences, the same agency which licenses all hospitals. The physical facilities of the Surgery Center are identical to those which would be found in any out-patient surgery area in a hospital. The operating rooms, recovery areas, nursing station, back-up generator and air exchange system, which insures a sterile environment, are typical of those found in any hospital. The medical equipment (which is the subject of the property taxation) includes sophisticated anesthesia equipment, oxygen and carbon dioxide equipment, a "crash-cart" available to resuscitate patients suffering heart failure, cardiac monitors, suction machines, a laser for eye surgery, and a variety of sophisticated surgical instruments. Dr. Van Kirke Nelson testified that this equipment is typical of that found in surgical areas of hospitals and would not be found in a typical doctor's office. The Surgery Center has 26 doctors and 23 additional employees on its staff. It has immediate and convenient access to x-ray, laboratory, ambulance, pharmacy, and pathology services which are available in any hospital.

The Surgery Center recognizes that it is not a traditional hospital in that it does not own a large building which contains an exhaustive array of services or provide for overnight stays by patients. Yet, as Dr. Nelson testified, there have always been special purpose hospitals providing limited services. Further, with recent advances in medical technology, services previously available at a traditional hospital facility are now routinely

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performed at out-patient facilities such as the Surgery Center. The Center is no less a hospital simply because it does not perform every conceivable hospital task.[2]

The Center can provide high quality care at a significantly lower cost to the patient. In Montana Deaconness Hospital v. Cascade County, the Court recognized that:

> "The legislative purpose in creating the taxation exemption [MCA § 15-6-201(1)(c)] appears to be lower costs of hospital care, which, in turn, means lesser expenses for the patients."

521 P.2d at 205. The court noted that to tax the property leased by Montana Deaconness Hospital would directly contradict the legislative intent of providing lower cost medical care. Id. Similarly, the doctors who formed the Surgery Center as a special purpose hospital did so with the intention of providing lower cost care, and they have indeed provided surgical care previously available only at Kalispell Regional Hospital at a lower cost.

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2 Courts have recognized the changing nature of medical care and the need to extend tax exemptions to organizations performing hospital functions which are not organized as traditional hospitals. In Harvard Community Health Plan v. Board of Assessors, 427 N.E. 2d 1159 (Mass. 1981), the court considered whether the Harvard Community Health Plan, a health maintenance organization, was entitled to a property tax exemption. The court noted the changing nature of medical services and the Health Plan's ability to provide quality services at a lower cost. 427 N.E. 2d at 1161-62. It held that the change in the delivery of medical services required a change in the "definitional predicates" used to determine whether an organization met the requirements for property tax exemption. 427 N.E. 2d at 1163. In that case, the relevant statute required that the organization have a charitable purpose, and the court enlarged the definition of "charitable" to encompass this new, broader concept of health care. 427 N.E. 2d at 1163-64.

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To tax the Surgery Center's equipment, while allowing Kalispell Regional Hospital to go tax free, would contradict the clear legislative intent to reduce medical costs. The Surgery Center's only source of income is its billings to patients. If tax exemption is denied, the management of the Surgery Center has no choice but to increase those charges. By granting the tax exemption, the Board can fulfill the legislative intent to provide lower cost hospital care to Montana citizens.

B. The Surgery Center Does Not Have To Be Formed As A Non-Profit Organization To Be Tax Exempt.

The Surgery Center does not have to be formed for charitable purposes in order to receive the benefit of MCA § 15-6-201(1)(c). The statute interpreted in Montana Deaconness Hospital v. Cascade County, 521 P.2d at 204, granted tax exemptions for:

> . . . such other property as is used exclusively for agricultural and horticultural societies, for educational purposes, places of actual religious worship, hospitals and places of burial not used or held for private or corporate profit . . .

(emphasis added). This statute, 84-202, R.C.M. 1947, was the predecessor of MCA § 15-6-201. It was amended between 1974 and the present to delete the requirement that tax exempt property be used for non-profit purposes. The present statute reads:

> (1) The following categories of property are exempt from taxation: . . . (c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for hospitals . . .

MCA § 15-6-201(1)(c). The charitable purpose requirement has been deleted. Where the legislature amends a statute, it is presumed to intend a change. Crist v. Segna, 622 P.2d 1028, 1029 (Mont. 1981). Thus, there is no requirement that the Center be a

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non-profit organization, and the language in Montana Deaconness Hospital v. Cascade County discussing the charitable purpose requirement should not affect the Board's decision.

C. The Definition of "Hospital" In MCA § 50-5-101(23) Does Not Control Whether The Surgery Center Is A Hospital For Tax Exemption Purposes.

The definition of "hospital" in 50-5-101(23) does not apply to MCA § 15-6-201(1)(c) to determine whether the Surgical Center is tax exempt. Section 50-5-101 is applicable only to the licensing and Certificate of Need requirements for health facilities. It does not even mention Montana's taxation statutes.

MCA § 1-2-107 states:

> "Whenever the meaning of a word or phrase is defined in any part of the code, such definition is applicable to the same word or phrase wherever it occurs, except where a contrary intention plainly appears."

(emphasis added). Clearly, a definition does not apply to other portions of the Code where the Legislature expressly limits the use of the defined term. This is precisely what it did in adopting the definition of "hospital" in MCA § 50-5-101:

> "As used in parts 1-4 of this chapter, unless the context clearly indicates otherwise, the following definitions apply . . . (23) "hospital" means a facility . . ."

MCA § 50-5-101(23) (emphasis added). The legislature unequivocally expressed its intent that the definitions in MCA § 50-5-101 are applicable only to parts 1-4 of chapter 5. Title 50 contains 48 chapters. By expressly limiting the definitions in 50-5-101 to chapter 5, the Legislature did not even intend for those definitions to apply to all of Title 50, much less the

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entire Montana Code. The limitation on the definition of hospital "plainly appears" and expansive use of that definition based upon MCA § 1-2-107 is unwarranted.

Moreover, even if MCA § 1-2-107 applied, it is but one among many statutes and maxims of statutory construction which must be applied to determine the meaning of "hospital" in MCA § 15-6-201(1)(c). All statutory construction by a court or an administrative board is an attempt to search out the will of the Legislature. Johnson v. Maris River Elec. Co-op., Inc., 687 P.2d 668, 671 (Mont. 1984). In construing any statute, the "intention of the legislature is to be pursued if possible." MCA § 1-2-102; Mydlarz v. Palmer/Duncan Construction Co., 682 P.2d 695, 701 (Mont. 1984). A statute must not be interpreted to defeat its purpose and, indeed, the purpose sought to be achieved by the Legislature is of prime consideration in interpreting that statute. Dover Ranch v. Yellowstone County, 609 P.2d 711, 715 (Mont. 1980).

Applying these principles to the instant action requires the Board to grant the Center's requested exemption. The legislative intent, as expressed by the Montana Supreme Court in Bozeman Deaconness Hospital v. Cascade County, is "to lower costs of hospital care, which, in turn, means lesser expenses for patients." 521 P.2d at 205. Granting the exemption will lower patient costs.

This Board cannot ignore legislative intent and draft a definition (which, by its very terms, limits its application) onto Montana's property taxation statutes which directly

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conflicts with a clearly stated legislative purpose. Any other argument is not merely unsupported by Montana law, it directly contravenes other applicable Montana statutes and case law.

III. CONCLUSION

The Surgery Center looks like a hospital, has equipment like a hospital, has a professional hospital staff, and performs traditional hospital functions. In every meaningful sense, the Surgery Center is a hospital and should be treated as a hospital for tax exemption. For the reasons set forth above, the New Horizons Partnership/Flathead Outpatient Surgical Center respectfully requests that the Flathead County Tax Appeal Board grant its request for property tax exemption pursuant to MCA § 15-6-201(1)(c).

DATED this _____ day of November, 1986.

MURRAY, KAUFMAN, VIDAL & GORDON, P.C.

By: _____

James E. Vidal
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MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

March 27, 1987

The fifty-first meeting of the Senate Taxation Committee was called to order at 8:00 A.M. on March 27, 1987 by Chairman George McCallum in Room 413/415 of the Capitol Building.

ROLL CALL: All committee members were present.

CONSIDERATION OF HB 813: Representative Cohen, House District 3, presented this bill to the committee. This bill establishes a fee in lieu of tax for off-highway vehicles. People are out riding around on three-wheelers and four-wheelers and there is no registration or form of identification should they cause damage or need to be reported because they are trespassing.

PROPONENTS: None.

OPPONENTS: Jim Flynn, Department of Fish, Wildlife and Parks, gave testimony in opposition to this bill. In theory they are not opposed to this bill but they are concerned with the new and added responsibility that this legislation places on their agency. You will notice, the enforcement of this act is up to the department's enforcement personnel, sheriffs and their deputies, the Montana Highway Patrol and the police of each municipality. At the present time this is not a responsibility that we have. The additional responsibility they are being strapped with in this bill, should be looked at from a funding standpoint to assist with enforcement capabilities. He would request that they be deleted out of the enforcement responsibilities or some sort of revenues be forthcoming to perform that function.

QUESTIONS FROM THE COMMITTEE: Senator Severson said there certainly is a relationship between 3 and 4 wheelers and motor cycles. What are we doing now, splitting the classes up. He referred to the stricken language on page 1, line 15.

Representative Cohen said the reason three and four wheelers were separated out is because they are not used on the highways. If they were used on the highway they should be licensed and paying a tax. This is strictly for vehicles used off highways.

FURTHER CONSIDERATION OF HB 666: Senator Crippen said under I-105 the bonding companies are concerned that they won't be able to sell the bonds because of the cap on property taxes. They are having problems trying to sell these bonds to finance the tax increment districts. He has some concern with pledging revenue from other areas involving the whole city.

Senator Mazurek does not know if it is healthy to pledge revenues from every place else for the increment district.

Senator Halligan asked if we could put language in this that would say this goes into effect only if I-105 is put in place.

Jim Lear said the only problem with that is identifying when exactly I-105 will go into place.

DISPOSITION OF HB 794: Senator Mazurek made a motion that HB 794 BE CONCURRED IN.

Senator McCallum said there are two hospitals in the state of Montana paying personal property taxes and one is in his district.

Senator Mazurek said they can become nonprofit.

Senator Lybeck said I think we have to refer back to Dr. Nelsons testimony.

Senator Mazurek said if you're going to make those hospitals exempt you better let my doctor's office on Montana Avenue be exempt too. There is a logical distinction. If you will use your money for nonprofit purposes then we will give you the break. They are in business to make money.

The motion carried with Senators McCallum, Lybeck, Halligan and Brown opposed.

FURTHER CONSIDERATION OF HB 366: Senator Halligan made a motion that HB 366 BE TAKEN FROM THE TABLE. The motion failed with Senators Lybeck, Crippen and Halligan in support.

FURTHER CONSIDERATION OF HB 700: Senator Crippen made a motion that HB 700 BE CONCURRED IN.

Senator Mazurek said Mr. Bourke has proposed an amendment to this bill, attached as Exhibit 1, which he asked Mr. Bourke to explain.

ROLL CALL

TAXATION COMMITTEE

50th LEGISLATIVE SESSION -- 1987 Date 3-27-87

NAME	PRESENT	ABSENT	EXCUSED
SENATOR CRIPPEN	✓		
SENATOR NEUMAN	✓		
SENATOR SEVERSON	✓		
SENATOR LYBECK	✓		
SENATOR HAGER	✓		
SENATOR MAZUREK	✓		
SENATOR ECK	✓		
SENATOR BROWN	✓		
SENATOR HIRSCH	✓		
SENATOR BISHOP	✓		
SENATOR HALLIGAN, VICE CHAIRMAN	✓		
SENATOR McCALLUM, CHAIRMAN	✓		

Each day attach to minutes.

STANDING COMMITTEE REPORT

March 27 19 87

MR. PRESIDENT

We, your committee on SENATE TAXATION

having had under consideration HOUSE BILL No. 794

third reading copy (blue color)

WILLIAMS, M. (MAZUREK)

PROPERTY TAX EXEMPTION FOR LICENSED, NONPROFIT HOSPITAL & OUTPATIENT CENTERS

Respectfully report as follows: That HOUSE BILL No. 794

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

SENATOR GEORGE McCALLUM, Chairman.

STANDING COMMITTEE REPORT

March 27 19 87

MR. PRESIDENT

We, your committee on SENATE TAXATION

having had under consideration HOUSE BILL No. 794

third reading copy (blue color)

WILLIAMS, M. (MAZUREK)

PROPERTY TAX EXEMPTION FOR LICENSED, NONPROFIT HOSPITAL & OUTPATIENT CENTERS

Respectfully report as follows: That HOUSE BILL No. 794

BE CONCURRED IN

~~DO PASS~~

~~DO NOT PASS~~

SENATOR GEORGE McCALLUM, Chairman.

HOUSE BILL NO. 794

INTRODUCED BY M. WILLIAMS, SANDS

BY REQUEST OF THE HOUSE COMMITTEE ON TAXATION

A BILL FOR AN ACT ENTITLED: "AN ACT ~~CLARIFYING--THE~~ REPLACING THE PROPERTY TAX EXEMPTION FOR HOSPITALS BY ESTABLISHING A PROPERTY TAX EXEMPTION FOR LICENSED, NONPROFIT ~~HOSPITALS--AND-OUTPATIENT-SURGICAL-CENTERS~~ HEALTH CARE FACILITIES; AMENDING SECTION 15-6-201, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND ~~A-RETROACTIVE~~ AN APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 15-6-201, MCA, is amended to read:

"15-6-201. Exempt categories. (1) The following categories of property are exempt from taxation:

(a) the property of:

(i) the United States, the state, counties, cities, towns, school districts, except, if congress passes legislation that allows the state to tax property owned by an agency created by congress to transmit or distribute electrical energy, the property constructed, owned, or operated by a public agency created by the congress to transmit or distribute electric energy produced at privately owned generating facilities (not including rural electric cooperatives);

(ii) irrigation districts organized under the laws of Montana and not operating for profit;

(iii) municipal corporations; and

(iv) public libraries;

(b) buildings, with land they occupy and furnishings therein, owned by a church and used for actual religious worship or for residences of the clergy, together with adjacent land reasonably necessary for convenient use of such buildings;

(c) property used exclusively for agricultural and horticultural societies, for educational purposes, and for ~~licensed,~~ nonprofit ~~hospitals and---licensed,---nonprofit outpatient--surgical--centers,~~ HEALTH CARE FACILITIES, AS DEFINED IN 50-5-101, LICENSED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES AND ORGANIZED UNDER TITLE 35, CHAPTER 2 OR 3. A HEALTH CARE FACILITY THAT IS NOT LICENSED BY THE DEPARTMENT OF HEALTH AND ENVIRONMENTAL SCIENCES AND ORGANIZED UNDER TITLE 35, CHAPTER 2 OR 3, IS NOT EXEMPT.

(d) property that meets the following conditions:

(i) is owned and held by any association or corporation organized under Title 35, chapter 2, 3, 20, or 21;

(ii) is devoted exclusively to use in connection with a cemetery or cemeteries for which a permanent care and

improvement fund has been established as provided for in Title 35, chapter 20, part 3; and

(iii) is not maintained and operated for private or corporate profit;

(e) institutions of purely public charity;

(f) evidence of debt secured by mortgages of record upon real or personal property in the state of Montana;

(g) public art galleries and public observatories not used or held for private or corporate profit;

(h) all household goods and furniture, including but not limited to clocks, musical instruments, sewing machines, and wearing apparel of members of the family, used by the owner for personal and domestic purposes or for furnishing or equipping the family residence;

(i) a truck canopy cover or topper weighing less than 300 pounds and having no accommodations attached. Such property is also exempt from the fee in lieu of tax.

(j) a bicycle, as defined in 61-1-123, used by the owner for personal transportation purposes;

(k) automobiles and trucks having a rated capacity of three-quarters of a ton or less;

(l) motorcycles and quadricycles;

(m) fixtures, buildings, and improvements owned by a cooperative association or nonprofit corporation organized to furnish potable water to its members or customers for

uses other than the irrigation of agricultural land;

(n) the right of entry that is a property right reserved in land or received by mesne conveyance (exclusive of leasehold interests), devise, or succession to enter land whose surface title is held by another to explore, prospect, or dig for oil, gas, coal, or minerals;

(o) property owned and used by a corporation or association organized and operated exclusively for the care of the developmentally disabled, mentally ill, or vocationally handicapped as defined in 18-5-101, which is not operated for gain or profit; and

(p) all farm buildings with a market value of less than $500 and all agricultural implements and machinery with a market value of less than $100.

(2) (a) The term "institutions of purely public charity" includes organizations owning and operating facilities for the care of the retired or aged or chronically ill, which are not operated for gain or profit.

(b) The terms "public art galleries" and "public observatories" include only those art galleries and observatories, whether of public or private ownership, that are open to the public without charge at all reasonable hours and are used for the purpose of education only.

(3) The following portions of the appraised value of a capital investment made after January 1, 1979, in a

recognized nonfossil form of energy generation, as defined in 15-32-102, are exempt from taxation for a period of 10 years following installation of the property:

(a) $20,000 in the case of a single-family residential dwelling;

(b) $100,000 in the case of a multifamily residential dwelling or a nonresidential structure. (Subsection (1)(p) applicable to taxable years beginning after December 31, 1985--sec. 4, Ch. 463, L. 1985.)"

NEW SECTION. Section 2. Extension of authority. Any existing authority of the department of revenue to make rules on the subject of the provisions of this act is extended to the provisions of this act.

NEW SECTION. Section 3. Effective date. This act is effective on passage and approval.

NEW SECTION. Section 4. Applicability. This act applies ~~retroactively, within the meaning of 1-2-109,~~ to taxable years beginning after December 31, ~~1986~~ 1987.

-End-